

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 151 of 2020

Dilip Pal -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mrs. S. Agarwal,
Ld. Advocate.

For the State Respondents : Mr. S.N. Ray,
Ld. Advocate.

14
23.07.2024

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The Finance Department's Notification No. 9008-F(P) dated 16.09.2011 stipulated certain benefits for casual/daily rated/contractual workers if they fulfil the criterias. One such benefit of enhanced remuneration as stipulated in the Notification was prayed for by the applicant which was not considered by the Department of Water Resources Investigation and Development in its impugned correspondence dated 30.11.2017. The Department relied on the ground for such rejection that the applicant being a casual worker had not discharged his duties for at least 240 days in a year during the last 10 years. As per the same Notification, such a worker was required to have rendered 10 years of service continuously with at least 240 days attendance each year. The counsel for the applicant Mrs. Agarwal draws attention to a copy of an annexure signed by the Assistant Engineer & Executive Engineer (AM), Malda which appears to have certified that the applicant, Dilip Pal was engaged since 1999. Submission of Mrs. Agarwal is that by this very record, it is evident that the applicant has been performing his duties continuously since 1999, inclusive of 240 days in a year. In response to the prayer and submission of Mrs. Agarwal, Mr. Ray, learned counsel insists that the applicant being a casual worker and not having discharged his duties for at least 240 days in a year was not found entitled for such benefit under the same Notification. Further, the applicant was not appointed against a vacancy. The Clause (x) of the same Notification is relied by him, the relevant sentences are as under :

“Clause (x) – The provisions of this order will not be applicable where contractual engagement has been made without any sanctioned post.”

Having heard the submissions of the learned counsels and on examination of the records referred by them, the Tribunal has come to this finding that the applicant, though engaged since 1999, has not been able to satisfy that he has been

Form No.

Case No. **OA-151 of 2020**

Vs.

The State of West Bengal & Ors.

performing his duties continuously for the past 10 years, including 240 days in a year. The Clause (x) which requires a worker to have been engaged against any sanctioned vacancy also weighs strongly against the prayer of the applicant. In the reference pointed out by Mrs. Agarwal, the same respondent authorities have recorded that the applicant was not engaged against any sanctioned post. So far the question of whether such workers like the applicant having been engaged for more than 10 years and continuing to discharge his duties but not engaged against any sanctioned post is entitled to such benefit or not is a policy matter in which the Tribunal cannot interfere. Such decisions are the exclusive domain of the Government and in its wisdom it may review its policy in future whether persons like Dilip Pal working as a casual worker for more than 10 years but not engaged against any sanctioned post, will get such benefits. So far the question of his prayer is concerned, it is clear that as per the prevalent rules framed by the Government, he is not entitled to any such benefit primarily for the reason his engagement in the year 1999 was not made against any sanctioned post.

In view of the above observations, this application is **disposed of** without passing any direction to the State respondents.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS